

BEFORE THE
Federal Communications Commission

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In the Matter of)
)
Amendment of Section 73.202(b))
Table of Allotments)
FM Broadcast Stations)
(Klamath Falls, OR)
Altamont, OR,)
Butte Falls, OR))

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RM-8497

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To: Chief. Allocations Branch

RESPONSE TO REPLY COMMENTS OF TERRY A. COWAN

Western States Broadcasting, Inc. ("WSB") hereby submits a Response to the Reply Comments of Terry A. Cowan filed in the above-referenced proceeding.

BACKGROUND -

Terry A. Cowan filed a Petition for Rule Making in the above-referenced proceeding requesting the allocation of FM Channel 284C-1 to Klamath Falls, Oregon, as the 4th FM service in Klamath Falls and the 7th radio service in Klamath Falls. Klamath Falls currently has 3 FM services and 3 AM services licensed to Klamath Falls, Oregon.

WSB filed a Counter-proposal on September 19, 1994, requesting that Channel 284C-1 be allotted to Altamont, Oregon, and that Channel 249C-1 which is currently at Altamont, Oregon, be re-allocated to Butte Falls, Oregon, as the first service at Butte Falls, Oregon. The net result of WSB's Counter-proposal would be that Altamont, Oregon, would continue to have one Class C-1 FM service as its only local service and Butte Falls, Oregon, would receive its first local radio service. Klamath Falls, which already has 6 local radio services,

is already sufficiently served by its 6 local radio services and does not need a 7th local service licensed to Klamath Falls, Oregon. WSB believes that the benefits of its Counter-proposal far outweigh any possible benefit found in the proposal of Terry A. Cowan.

WSB'S COUNTER-PROPOSAL IS IN FULL COMPLIANCE WITH THE COMMISSION'S ALLOCATION POLICIES AND RULES - TERRY A. COWAN DOES NOT EVEN DISPUTE THIS FACT -

The Reply Comments of Terry A. Cowan consist of nothing more than a totally unwarranted attack on WSB based on grounds that have nothing to do with the issues that are relevant to allocations proceedings. Notably, Terry A. Cowan totally ignores the engineering aspects and public interest aspects of the WSB counter-proposal. Terry A. Cowan does not even suggest that WSB's counter-proposal is unacceptable to the Commission or that WSB's counter-proposal fails to meet the Commission's policies and rules regarding allocations in any way. The total absence of any suggestion by Terry A. Cowan that WSB's counter-proposal fails to meet Commission requirements in this matter is tantamount to an admission by Terry A. Cowan that the WSB counter-proposal is in full compliance with the Commission's policies and rules controlling allocations proceedings. WSB submits that its counter-proposal fully complies with all of the Commission's policies and rules regarding allocations and that its counter-proposal is fully acceptable to the Commission. Review of the WSB counter-proposal will reveal that it meets all of the Commission's engineering requirements. Moreover, WSB's counter-proposal provides a clear public interest benefit by providing first service to Butte Falls, Oregon.

While Terry A. Cowan's Reply Comments are characterized by inflammatory rhetoric such as accusations of WSB's counter-proposal being

a "sham", being "not bona-fide", and being an "abuse of the FCC's processes", these Reply Comments are void of any real comment on any issue that is relevant to an allocation proceeding.

TERRY A. COWAN SPENDS MUCH OF HIS REPLY COMMENT ON A TOTALLY FRIVOLOUS AND HIGHLY SPECULATIVE DISCUSSION OF WHAT WSB'S FINANCIAL MIGHT BE IN THE FUTURE -

In his Reply Comment, Terry A. Cowan spends much of his time discussing the fact that WSB's stations at Altamont, Oregon, and West Klamath, Oregon, are temporarily off-the-air due to equipment problems and financial problems. This is not news. The problems experienced by WSB have been properly reported to the Commission and the Commission is fully aware of the situation. WSB is taking the necessary steps to remedy these problems. The allegations made by Terry A. Cowan against WSB regarding the temporary silence of its stations are totally irrelevant to the Commission's policies and considerations and rules which control allocation proceedings. Terry A. Cowan makes the faulty assumption that just because WSB has experienced temporary financial problems WSB will always have financial problems in the future. Cowan's allegations about WSB's financial condition in the future are sheer speculation and totally frivolous. One might even think from Cowan's comments that he has a crystal ball which reveals the financial future of WSB at some unknown point in time in the future when WSB would be filing FCC Form 301 applications at Butte Falls, Oregon, and Altamont, Oregon. Based on this frivolous speculation about WSB's financial condition in the future, Terry A. Cowan is asking the Commission to deny WSB's counter-proposal which would bring first local service to Butte Falls, Oregon.

TERRY A. COWAN MAKES NO SHOWING OR ANY SUGGESTION WHATSOEVER
THAT HIS FINANCIAL CONDITION WOULD BE ANY BETTER THAN WSB'S IN THE
FUTURE -

It is the position of WSB that its current temporary financial problems are totally irrelevant to the proper issues that should be considered in an allocation proceeding. However, since Terry A. Cowan has chosen to make such a point about WSB's financial problems, WSB feels compelled to note that Terry A. Cowan has made no showing whatsoever that his financial condition would be any better than that of WSB in the future. It is entirely possible that Terry A. Cowan's financial condition in the future may well be far worse than that of WSB and that he may not be in any position to file an application for any FM Channel at Altamont or Klamath Falls, Oregon. Clearly, speculation about the financial condition of WSB or Terry A. Cowan in the future has no place in this proceeding. This proceeding should be based on the Commission's policies and rules that control allocations and as noted above, WSB's counter-proposal is in full compliance with these policies and rules.

TERRY A. COWAN HAS SUMMARILY DISPOSED OF THE 307(b) ISSUE IN
THIS PROCEEDING BY IGNORING IT -

The WSB counter-proposal presents a 307(b) issue that must be decided by the Commission in this proceeding. The WSB counter-proposal would bring new first service to Butte Falls, Oregon. Butte Falls, Oregon, is an incorporated city in the State of Oregon with its own local governmental structure and a clearly identifiable population group in the State of Oregon. The City of Butte Falls, Oregon, deserves to have its own first local radio service and the WSB counter-proposal would provide this service. The new first service at Butte Falls, Oregon, would be possible if the Commission allocates Channel 284C-1

to Altamont, Oregon, to replace Channel 249C-1 which would go to Butte Falls, Oregon. Obviously, with WSB's counter-proposal, Klamath Falls, Oregon, would not be receiving a 7th local radio service which it does not need.

In contrast, Terry A. Cowan summarily disposes of this 307(b) issue by simply stating that the City of Butte Falls, Oregon, is small and does not deserve any service in his opinion. Furthermore, and even more remarkably, Terry A. Cowan goes on to take the astounding position that Altamont, Oregon, does not even exist and therefore Channel 284C-1 should be allocated to Klamath Falls as he suggests. This entire scenario as suggested by Terry A. Cowan goes beyond frivolous and approaches the ridiculous. The Commission policies and rules that control allocations clearly require that first service be allotted to the City of Butte Falls, Oregon, if WBS's counter-proposal meets Commission standards to achieve this public interest benefit. Furthermore, the Commission has already recognized the existence of Altamont, Oregon. Obviously, WSB's FM station KCHQ(FM) is licensed to Altamont, Oregon. Additionally, WSB's KCHQ(FM) operated on a channel allocated by the Commission itself in the mid-1980's to Altamont, Oregon. Altamont, Oregon, is a clearly identifiable population group in the State of Oregon, and allocation of Channel 284C-1 in this proceeding would be the preferred decision in this proceeding. Allocation of Channel 249C-2 to Butte Falls, Oregon, and Channel 284C-1 to Altamont, Oregon, would achieve the best possible public interest benefit in this matter.

TERRY A. COWAN IS NOTHING MORE THAN A DISGRUNTLED WOULD-BE PURCHASER OF WSB'S KCHQ (FM) AT ALTAMONT, OREGON, WHO FAILED IN HIS EFFORTS TO BUY THE STATION FROM WSB -

Terry A. Cowan has failed to report to the Commission that he failed in his efforts to purchase KCHQ(FM) from WSB and that he is

nothing more than a disgruntled would-be purchaser of KCHQ (FM) who failed in his efforts. Terry A. Cowan made his efforts to buy KCHQ (FM) after WSB's began to experience its temporary financial problems and Terry A. Cowan has tried to capitalize on the problems and difficulties that have affected WSB and its stations.

KYRE AT YREKA, CALIFORNIA, CONTINUES TO OPERATE ON CHANNEL 249 -

Terry A. Cowan has made much of an issue about the fact that WSB has not filed to operate on Channel 249C-1 at Altamont, Oregon. Terry A. Cowan gives the impression that WSB has not operated any station at all and that WSB has ignored the Commission's requirements in this matter. Cowan ignores the fact that KYRE in Yreka, California, continues to operate on Channel 249 and that operation on this channel by WSB would not be possible at this time. Furthermore, WSB has operated for a considerable period of time on Channel 267C-1 prior to its station KCHQ (FM) going silent. WSB submits that these points are irrelevant like almost every other comment made by Cowan to the proper issues in a proceeding such as this.

WSB requests that its counter-proposal be granted and the Cowan proposal be denied for the reasons discussed by WSB in this proceeding.

Respectfully submitted,

Western States Broadcasting, Inc.


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October 13, 1994.

CERTIFICATE OF SERVICE

I, WILLIAM L. ZAWILA, hereby certify that a true and correct copy of the foregoing Response to Reply Comments of Terry A. Cowan was served by first class mail, postage prepaid, on October 13, 1994, on the following:

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